

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

(Conducted through Virtual Court)

ITA No. 341/Ind/2022 (Assessment Year:2018-19)

M/s Ritspin Synthetics Ltd. Plot No.2, Kheda Industrial Growth Center, Pithampur District - Dhar	Vs.	DCIT, CPC, Bangalore
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AAACR 8303 E		
Assessee by	Shri S.N. Agrawal & Pankaj Mogra ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	06.02.2023	
Date of Pronouncement	13.03.2023	

ORDER

Per B.M. Biyani, AM:

Feeling aggrieved by appeal-order dated 14.07.2022, passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi [**Ld. CIT(A)**], which in turn arises out of intimation dated 04.11.2019 passed by CPC, Bangalore [**Ld. AO**] u/s 143(1) of Income-tax Act, 1961 [**the act**] for assessment-year [**AY**] 2018-19, the assessee has filed this appeal on the grounds mentioned in Appeal Memo.

2. Heard the learned Representatives of both sides and case records perused.

3. Briefly stated the facts are such that the assessee filed his return of income alongwith auditors' report in Form No. 3CD. Based thereon, the Ld. AO made twin-disallowances, viz. (i) provision for gratuity u/s 40A(7) of Rs. 32,70,362/-; and (ii) employees' contributions to PF/ESI u/s 2(24)(x) read with section 36(1)(va) of Rs. 1,28,43,256/-. Being aggrieved by same, the assessee filed first-appeal but could not succeed. Now, the assessee has come in this appeal before us.

4. On perusal of Para No. 2 of the order of first-appeal, we observe that the Ld. CIT(A) has given notices dated 14.01.2021, 04.05.2022, 24.05.2022 and 24.06.2022 fixing the hearings on 29.01.2021, 11.05.2022, 30.05.2022 and 29.06.2022 on ITBA portal, but the assessee had failed to respond; therefore the Ld. CIT(A) decided appeal *ex-parte*. In this regard, the assessee has submitted a letter dated 03.02.2023 accompanied by an affidavit duly sworn by Shri B.S. Suryawanshi, director of assessee-company, wherein it has been averred that on 29.06.2022 i.e. the date of hearing fixed by Ld. CIT(A), the assessee-company filed an adjournment-application on the ITBA Portal, designated by Income-tax Department, but the same was not taken into consideration by Ld. CIT(A). The assessee has also filed a printout of the said adjournment-application/acknowledgement downloaded from ITBA Portal to support this averment. Ld. AR submitted that the Ld. CIT(A) has passed appeal-order without considering the adjournment-request of assessee, therefore the action of Ld. CIT(A) is against the principle of natural justice. Hence, the Ld. AR prays, the matter may be remanded to the file of Ld. CIT(A) for a fair and proper adjudication after giving due opportunity of hearing to assessee. Ld. DR does not have any objection but prays to direct the assessee to represent his case before Ld. CIT(A) and do not seek unnecessary adjournments. In view of such pleadings by parties and also having regard to the principle of natural justice and fair play, we deem it fit and appropriate to remand this matter back to the file of Ld. CIT(A) for a proper adjudication after giving opportunity of hearing

to assessee, uninfluenced by his earlier decision. We order accordingly. The assessee is also directed to ensure participation in the hearings fixed by Ld. CIT(A) and do not seek unnecessary adjournments.

5. Resultantly, this appeal of assessee is allowed for statistical purpose.

Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 13/03/2023.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Sd/-
(B.M. BIYANI)
Accountant Member

Indore, 13.03. 2023

Patel/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore